

**HIGH COURT OF KERALA****Bench: Justice Mohammed Nias C.P.****Date of Decision: 14th May 2024**

BAIL APPLICATION NO. 3591 OF 2024

CRIME NO. 273/2024 OF ELOOR POLICE STATION, ERNAKULAM

**SANAL ...PETITIONER****VERSUS****STATE OF KERALA ...RESPONDENT****Legislation:**

Section 439 of the Code of Criminal Procedure (Cr.P.C.)

Section 22(b) of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act)

**Subject:** Bail application seeking regular bail for the petitioner accused under the NDPS Act.**Headnotes:**

NDPS Act – Regular Bail – Petitioner, accused of possessing 8.25 grams of MDMA, sought bail under Section 439 of Cr.P.C. – Arrested on 30.3.2024, currently in judicial custody – Petitioner claimed innocence and alleged false implication – No previous criminal antecedents and no apprehension of absconding if granted bail [Paras 2-4].

Considerations for Bail – Court considered the quantity of the substance (intermediate quantity) and the period of custody – Noted that the prosecution raised no concerns of the petitioner absconding or tampering with evidence – Emphasized on the right to liberty and due process while ensuring conditions to prevent misuse of bail [Paras 5-6].

Decision: Bail application allowed – Petitioner granted bail subject to conditions to ensure cooperation with investigation and prevent tampering with evidence [Para 7].

**Conditions:**

- i. Petitioner to be released on executing a bond for Rs. 50,000/- with two solvent sureties for the like sum.
- ii. Petitioner to report before the Investigating Officer every Saturday between 9 a.m. and 10 a.m. till the final report is filed.
- iii. Petitioner not to tamper with evidence or influence witnesses.
- iv. Petitioner not to be involved in any other crime while on bail.
- v. Violation of conditions will empower the court to cancel the bail.

**Referred Cases: None.****Representing Advocates:****For Petitioner: M/S. Francis Assisi, Ajeesh S. Brite, V.P. Lactisha, Amrutha P.S, and Manju Luckose****For Respondent: Sri. Sangeeth Raj N.R, Senior Public Prosecutor****ORDER**

This is an application filed under Section 439 of the Code of Criminal Procedure seeking regular bail.

2. The petitioner is the sole accused in Crime No. 273/2024 of Eloor Police Station, Ernakulam, for having committed an offence punishable under Section 22(b) of the Narcotic Drugs and Psychotropic Substances Act (*for short 'The NDPS Act'*).

3. The prosecution case, in brief, is that, on 30.3.2024 at about 00.15 hours, while the police party was on patrolling duty when they reached near in front of a scrap shop owned by one Mr Subair situated on the Eastern side of Nelson Mandela Road which lying from East North direction of Pathalam Road, the accused spotted with a scooter bearing Reg.No. KL.41.T.7235. On suspicion, the police party searched and seized 8.25 grams of MDMA alleged to have been kept in a small ziplock cover. The petitioner was arrested on 30.3.2024 and remanded to judicial custody.

4. The learned counsel appearing for the petitioner would say that the petitioner is totally innocent and has been falsely implicated with

ulterior motives. At any rate, he points out that the petitioner has been in custody since 30.3.2024, and the continued custody of the petitioner is unnecessary.

5. The learned Public Prosecutor opposed the petition.

6. After having considered the submissions of the learned counsel for the petitioner and learned Public Prosecutor and taking note of the fact that intermediate quantity is involved and the fact that the petitioner has been in custody from 30.3.2024 and no other criminal antecedents have been reported against the petitioner and also, since there is no apprehension raised by the prosecution that if released on bail the petitioner is likely to abscond, I hold that bail can be granted to the petitioner. I am inclined to grant bail under such circumstances.

7. Accordingly, this application is allowed, and the petitioner is granted bail subject to the following conditions:- i. The petitioner shall be released on bail on executing a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional

Court; ii. The petitioner shall report before the Investigating Officer every Saturday between 9 a.m. and 10 a.m. till the final report is laid; iii. The petitioner shall not tamper or attempt to tamper with the evidence or influence or try to influence the witnesses; iv. The petitioner shall not be involved in any other crime while on bail.

v. If any of the above conditions are violated, the court concerned will be empowered to take steps for cancellation of bail as per law.

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